

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF FINANCIAL ASSISTANCE  
EMERGENCY HOUSING AND ASSISTANCE PROGRAM CAPITAL DEVELOPMENT**

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<Insert Date>

To: EHAP Capital Development Deferred Loan (EHAPCD) Sponsors

From: <Program Manager>, Program Manager  
Emergency Housing Assistance Program Capital Development

Subject: **EHAPCD Bid Procedure Guidelines**

**\*\*\*THIS DOCUMENT SUPERSEDES ANY AND ALL PREVIOUS BID PROCEDURE GUIDELINES/MODEL BID PACAKGES THAT WERE AUTHORIZED FOR USE WITH EHAPCD LOANS\*\*\***

Pursuant to the requirements of the State's EHAP Capital Development Deferred Loan Program (EHAPCD), the Standard Agreement between the State Department of Housing and Community Development (HCD), and each Borrower/Sponsor, a competitive bid process must be utilized when awarding all construction contracts or subcontracts for services and materials to be paid for with EHAPCD loan proceeds.

Attached is HCD's approved Bid Procedure Guidelines which Sponsors are strongly encouraged to use for the EHAPCD funded construction/rehabilitation and consultant activities identified in their Standard Agreement. The Bid Procedure Guidelines are designed to reduce delays in acquiring acceptance for Sponsor construction/rehabilitation and consultant contracts. Use of the Bid Procedure Guidelines will expedite the required departmental review of your completed bid process. The Bid Procedure Guidelines includes all the necessary forms and instructions to bid a construction/rehabilitation and consultant job with the exception of the plans and specifications, written bidding procedures and contractor's questionnaire, which will be provided by each Sponsor for its particular project.

The bid solicitation period should be appropriate for the level of project complexity. The minimum bid response time for minor construction/rehabilitation projects should be no fewer than ten (10) days, while complex construction/rehabilitation projects may be given up to five (5) weeks. HCD encourages a minimum three (3) responsible bids. If a Sponsor's solicitation results in less than three (3) responsible bids, Sponsor will be required to provide a written satisfactory explanation to HCD that a reasonable effort was made to attract responsible bidders.

Effective January 1, 2002, all construction/rehabilitation work on state funded developments shall be subject to the payment of state prevailing wages and compliance with the State Prevailing Wage Law, Labor Code 1720 et. seq. For the purpose of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, with EHAPCD loan proceeds.

*State prevailing wage requirements may not apply to the new construction, expansion, or rehabilitation work by a nonprofit organization, on an emergency shelter or transitional housing facility to be operated on a not-for-profit basis, provided that:*

- A) The organization acquires at least fifty percent (50%) of the total project costs from nonpublic sources. For the purposes of this exclusion, total project costs do not include the value of real property that is transferred or leased. Total project costs include the value of donated labor, materials, architectural, and engineering services, or;*
- B) If public funding in the form of below market interest rate loans restricts the occupancy of at least forty percent (40%) of the projects units for at least twenty (20) years by deed or regulatory agreement to individuals or families earning no more than eighty percent (80%) of the area median income. Sponsor is required to provide evidence supporting the exemption and a letter of opinion from their legal counsel, or;*
- C) If the project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as an emergency shelter or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars (\$25,000).*

For all Sponsors who are not exempt from prevailing wage rates, you should request current prevailing wage rates from the State Department of Industrial Relations (DIR). State prevailing wages (trade specific) can be found at <http://www.dir.ca.gov/dlsr/pwd>. If there is no residential wage rate published then the higher commercial wage rates apply. State prevailing wages, should be obtained from the DIR website prior to any advertisement for bids. Questions for complying with State prevailing wage requirements should be directed to the State Department of Industrial Relations directly at (415) 703-4774.

HCD has approved the use of the 2007 Standard A.I.A. A101 Construction Contract to reduce the review and approval time of construction contracts. Any revisions to the standard language are subject to the prior written approval of HCD.

Construction/rehabilitation work shall be performed under a written construction contract, with a properly licensed building contractor and shall incorporate the following requirements:

- A) The construction contract will be between the Sponsor and a licensed building contractor. Sponsor shall serve as the “awarding body” as that term is defined in the Labor Code;
- B) Where Sponsor will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the “awarding body”.
- C) **The construction contract and any amendments thereto shall be subject to the prior written approval of HCD.**

If you have any questions about the bidding and contracting process, please contact your EHAPCD Contract Representative.

**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program – Capital Development  
(EHAPCD)**

**BID Procedure Guidelines**

HCD Approved forms included in this package:

- Information for Bidders
- Contractor Bid Form
- Bid Bond
- Non-Collusive Affidavit
- Contractor's Certification
- Work Plan (Cost Breakdown)

**WRITTEN BIDDING PROCEDURES:**

Pursuant to the regulations of the EHAPCD Capital Development Deferred Loan Program (EHAPCD) each Sponsor shall establish written bidding procedures for awarding all construction/rehabilitation contracts or subcontracts for services and materials to be paid for in whole or in part with EHAPCD loan proceeds. Written bidding procedures shall be submitted to HCD for review and acceptance prior to advertising for bids. At a **minimum** the procedures shall address the following:

- 1) Sponsor's definition of "Responsible Bidder";
- 2) Draft of advertisement and proposed advertising schedule;
- 3) Evaluation criteria and process used to evaluate submitted bids (including any forms);
- 4) Sample of Sponsor's Contractor's Questionnaire; and
- 5) Dispute process.

**INVITATION FOR BIDS:**

**The published bid invitation must include the following information:**

(Organization's Name) is requesting bids for (describe work to be performed, for example; to construct a 7,500 sq. ft. emergency shelter) in (City), CA. Work will be bound by all relevant regulations to satisfy (Lender's involved in funding construction project, for example; California Department of Housing and Community Development and City of Sacramento funding requirements). For information and complete package of required bid forms, contact (Contact person's name) at (Organization's name, address and phone number).

Bids will be received until \_\_\_\_\_ p. m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ in the (organization's name) office located at \_\_\_\_\_, California, at which time and place all bids will be publicly opened and read aloud.

The plans and specifications are on file at the office of the (Organization's Name) and (any other place plans and specifications will be available).

A walk-through-inspection of the site is scheduled for \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_.

Local, minority, disadvantaged and women owned businesses are encouraged to apply.

Invitation shall be published in a paper of general circulation for a period of time sufficient to encourage responses to meet the desired minimum of three (3) **responsible** bids.

### **CONTRACTOR'S QUESTIONNAIRE:**

**At a minimum Contractor's Questionnaire should contain the following:**

- 1) Current Date;
- 2) Contractor name (must include DBA);
- 3) Mailing Address;
- 4) Phone number with area code;
- 5) Calif. State Contractor's License Number;
- 6) Bank references;
- 7) List three (3) most recent, new construction or remodeling jobs including, name, address and phone number;
- 8) Length of time in business;
- 9) Number of employee;
- 10) Specify if contractor is an equal opportunity employer;
- 11) Indicate if contractor is eligible to perform state government work;
- 12) Name and address of insurance carrier or broker, and dollar amounts of coverage's;
- 13) Conflict of Interest questions listed below; and
- 14) Signature of License Holder and, if applicable, signature of Company Representative:

#### **Suggested Conflict of Interest questions:**

A) "Are you or any member of your family related to any employee of the Department of Housing and Community Development?"

Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, explain relationship.

B) "Are you or any member of your family related to any board member or employee of Sponsor?"

Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, explain relationship.

**Additional questions can be added to meet Sponsor's minimum qualifications for a responsible bid.**

## **CONTRACTOR'S BID PACKAGE:**

In addition to access to the project's plans and specifications, each contractor must receive the following items:

- ✓ Information for Bidders
- ✓ Contractor Questionnaire
- ✓ Contractor Bid Form
- ✓ Bid Bond
- ✓ Non-Collusive Affidavit
- ✓ Contractor's Certification
- ✓ Copy of current Contractor's License
- ✓ Work Plan (Cost Breakdown)

**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program Capital Development  
(EHAPCD)**

**INFORMATION FOR BIDDERS**

**A. BIDDER'S SECURITY**

Bids in excess of twenty-five thousand dollars (\$25,000) shall be accompanied by a bid guarantee of not less than five percent (5%) of the amount of the bid which may be: bid bond, money order, certified check or bank draft, U.S. Government Bonds at par value, or cashier check, made payable to the Sponsor. Such bid guarantee shall be submitted with the understanding that it shall guarantee that the bidder will not withdraw the bid for thirty (30) days after the date of the opening of the bids and that if the bid is accepted, the bidder will enter into a formal construction contract with the Sponsor. Bid guarantees of unsuccessful bidders will be returned when the construction contract is executed and performance and payment bonds are approved.

**B. PAYMENT AND PERFORMANCE BONDS**

Should this construction contract be awarded for an amount in excess of twenty-five thousand dollars (\$25,000) the successful bidder shall, not later than fifteen (15) days after the date of the execution of the construction contract, furnish performance and payment bonds or equivalent security in form satisfactory to the Sponsor and the State Department of Housing and Community Development (HCD), each in the penal sum of not less than one hundred percent (100%) of the full amount of the executed construction contract.

**C. SUBCONTRACTORS AND SUPPLIERS**

The Contractor shall be responsible under the construction contract for the acts and omissions of subcontractors, suppliers, and persons employed by them, either directly or indirectly, as fully as the Contractor is for the acts and omissions of Contractor employees. Nothing in the construction contract shall create any contractual relations between any subcontractor or supplier and the Sponsor, or any obligation on the part of the Sponsor to pay or cause to be paid any money to any subcontractor or supplier.

**D. AWARD OF CONTRACT - REJECTION OF BIDS**

The construction contract will be awarded to the lowest responsible bidder submitting the lowest proposal complying with the construction contract documents and specifications. The bidder to whom the award is made will be notified on the earliest practical date. The Sponsor, however, reserves the right to reject all bids. HCD will review the Sponsor's established bidding procedures and bid package to ensure that the Sponsor has complied with EHAPCD Regulations Section 7971(c) et. seq., but shall not assist in the selection of the Contractor.

If the lowest bid submitted is not accepted, HCD requires a written explanation that addresses the reason(s) why the lowest bid was not considered a responsible bid. If HCD does not accept the explanation or if the Sponsor chooses not to explain why the lowest bid was not considered responsible, then the Sponsor must reject all bids.

#### E. INSPECTIONS BY BIDDER

Before bidders complete and submit their bids, they shall thoroughly familiarize themselves with these construction contract documents and specifications, and its individual component parts. If the construction contract documents and specifications require the performance of labor or the installation or construction on the Sponsor's real or personal property, bidders shall visit the site where said work is to be performed or installation or construction completed and they shall familiarize themselves with the conditions and verify the requirements for completing the construction contract documents and specifications.

#### F. WITHDRAWAL OF BIDS

Bids may be withdrawn on a written, telegraphic, or facsimile request that must be received by the Sponsor prior to the time fixed for bid opening, provided that written confirmation of any telegraphic or facsimile withdrawal over the signature of the bidder is placed in the mail and postmarked prior to the time set for bid opening. Negligence on the part of bidders in preparing their bids confers no right of withdrawal or modification of their bids after such bids have been opened.

#### G. INTERPRETATION AND CHANGES

Changes to the specifications will be made by addendum. It shall be bidder's responsibility to make inquiry as to addenda issued. Bidders will be bound to addenda whether received or not. Bidders shall make their own independent investigation and analysis of the construction contract requirements. In the event of any question, bidders should submit the question in writing to the Architect or Sponsor's representative who will circulate the question and a written reply, without identifying the source of question, to all bidders who have picked up copies of the invitation for bids. The Sponsor will not be bound by any interpretations, oral discussions, or interpretations of the plans, specifications, or construction contract documents which are not reduced to writing and provided to all bidders by an addendum. If there is a patent ambiguity in the construction contract documents, plans or specifications, the bidder is obligated to bring that ambiguity to the attention of Sponsor, its architect or representative, prior to submission of a bid, and in the event of a failure to do so, will be bound by the Sponsor's interpretation of the ambiguity.

#### H. FORM OF CONSTRUCTION CONTRACT ("CONTRACT") AND BONDS

The construction contract, which the successful bidder, as Contractor, will be required to execute and the form of any bond which she/he will be required to furnish are included in the construction contract documents and specifications and should be examined by the bidder. The construction contract and any said bond shall be executed in the number of counterparts requested by the Borrower.

#### I. OPENING THE BIDS

Bids will be opened and publicly read aloud at the time and place set forth in the invitation for bids.

#### J. FAILURE TO EXECUTE CONTRACT OR FURNISH BOND

The failure of the successful bidder to execute the construction contract or to furnish any required bond no later than fifteen (15) days from the date of the execution of the construction contract or within such extended period of time as the Sponsor may grant based upon reasons determined adequate by it, shall constitute a default. The full amount of Bidder's Security shall be forfeited to the Sponsor.

#### K. NON-COLLUSIVE AFFIDAVIT

The bidder's attention is called to the fact that a bid is not completely executed and will not be considered for any purpose unless the Non-Collusive Affidavit is complete and correctly executed.

#### L. PENALTY FOR COLLUSION

If at any time it shall be found that any person, firm or corporation to whom a construction contract has been awarded has in presenting any bid or bids, colluded with any other party or parties, then the construction contract so awarded shall be null and void. The Contractor and his/her bondsperson shall be liable to the Sponsor for all loss or damage which the Sponsor may suffer thereby, and the Sponsor may re-advertise or select next lowest bidder.

#### M. WAIVER

In submitting a bid, bidders affirm that they have sufficiently informed themselves in all matters affecting the bid; that they have checked their bid for errors and omissions; that the prices stated in their bid are correct and as intended by them and are a complete and correct statement of their bid for the execution of the construction contract documents and specifications. Bidders waive any claim for the return of their Bidders' Security, if, on account of errors or omissions claimed to have been made by them in their bid or for any other reason, they should refuse or fail to execute the construction contract.

#### N. EXPERIENCE AND QUALIFICATIONS

Bidders may be required, upon request of the Sponsor, to prove to its satisfaction that they have the skill, experience, the necessary facilities, meet the requirements of a responsible bidder, and ample financial resources to perform the construction contract in a satisfactory manner within the required time.

#### O. TIME FOR PERFORMANCE

Within thirty (30) days of construction contract execution by the successful bidder, the Sponsor will issue a Notice to Proceed. The Notice to Proceed shall specify a date for commencement of the work (the "Start Date"). The work to be performed pursuant to said construction contract shall be completed within \_\_\_\_\_ consecutive calendar days of the Start Date.



**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program – Capital Development  
(EHAPCD)**

**CONTRACTOR BID FORM**

To: \_\_\_\_\_  
(Sponsor's Name and address)

Pursuant to and in compliance with your invitation for bids, the undersigned, being familiar with the **CONSTRUCTION CONTRACT DOCUMENTS and SPECIFICATIONS** dated \_\_\_\_\_, and addenda, if any thereto, hereby proposes to perform the work and/or deliver the materials, all in conformity with said invitation for bids and with said construction contract documents and specifications, for the sum of \$ \_\_\_\_\_.

1. The above bid includes all labor, materials and equipment required by the construction contract documents and specifications.
2. In submitting this bid, the bidder understands the right is reserved by (Sponsor's Name) to reject all bids.

The successful bidder shall be required to provide a list of the names of persons or entities proposed as subcontractors and material and equipment providers prior to or at the time of signing the construction contract.

3. Bidder's Security, if required, in the sum of \$ \_\_\_\_\_ in the form of \_\_\_\_\_ is submitted herewith in accordance with the construction contract documents and specification.
4. Attached hereto are the following (place an "X" on the blank line next to each required document accompanying this bid):

- A. \_\_\_\_\_ Contractor's Questionnaire (Provide by Sponsor)
- B. \_\_\_\_\_ Bidder's Security (HCD Form)
- C. \_\_\_\_\_ Non-collusive Affidavit (HCD Form)
- D. \_\_\_\_\_ Contractor's Certification (HCD Form)
- E. \_\_\_\_\_ Work Plan (Itemized cost breakdown) (HCD Form)
- F. \_\_\_\_\_ List of proposed subcontractors

5. State Contractor's license classification is as follows:

Classification \_\_\_\_\_

State Contractor's License No. \_\_\_\_\_

**Department of Housing and Community Development (HCD)**

**Emergency Housing and Assistance Program Capital Development  
(EHAPCD)**

**CONTRACTOR BID FORM (CONTINUED)**

6. The undersigned has checked carefully all of the above figures and understands that the Sponsor will not be responsible for any errors or omissions on the part of the undersigned submitting this bid.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
NAME OF BIDDER

\_\_\_\_\_  
PHONE AND FAX NUMBERS

\_\_\_\_\_  
OFFICIAL ADDRESS

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
AUTHORIZED SIGNER

**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program Capital Development  
(EHAPCD)**

**BID BOND (SAMPLE)**

KNOW ALL PEOPLE BY THESE PRESENTS, that we, the undersigned, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto \_\_\_\_\_, hereinafter called the Sponsor, in the penal sum of (\$\_\_\_\_\_) DOLLARS in lawful money of the United States of America for the payment of which, well and truly to be made, we hereby bind ourselves and ours and each of our successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal is about to hand in and submit a bid or proposal in accordance with those certain construction contract documents and specifications entitled CONTRACT DOCUMENTS AND SPECIFICATIONS FOR \_\_\_\_\_

Dated \_\_\_\_\_, and filed in the office of said Sponsor.

NOW, THEREFORE, if the above named Principal is awarded the construction contract, and shall fail to enter into a construction contract to perform said construction contract and to furnish any and all bonds in the form and in the amounts required under said construction contract documents and specifications, along with any other certifications required under said construction contract documents and specifications at the time of executing said construction contract, within fifteen (15) days after the construction contract is presented for signature, then the amount herein, the penalty of this bond which accompanies the bid, shall be declared forfeited and the full penal sum paid to the \_\_\_\_\_.

IN WITNESS THEREOF, said Principal and said Surety have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Phone Number of Representative

**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program Capital Development  
(EHAPCD)**

**NON-COLLUSIVE AFFIDAVIT**

STATE OF CALIFORNIA

COUNTY of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says:

That he or she is the \_\_\_\_\_ of the  
firm of \_\_\_\_\_.

The party making the foregoing bid; that such bids are genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of any other bidder, or to secure any advantage against the Sponsor or any person interested in the proposed construction contract; and that all statements in said bid are true.

That neither Members of Congress, Local or State Public Officials, or any employee or representative of the Sponsor is in any manner interested, directly or indirectly in the bid to which this Non-Collusive Affidavit is attached, nor in the construction contract which may be made pursuant to said bid, nor in any expected profits which may arise there from.

**SIGNATURE OF:**

Bidder if Bidder is an individual:

\_\_\_\_\_  
(Name of Bidder)

Partner if Bidder is a partnership:

\_\_\_\_\_  
(Name of Partner)

Officer if Bidder is a corporation:

\_\_\_\_\_  
(Name of Officer)

STATE OF CALIFORNIA )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

STATE OF CALIFORNIA )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**Department of Housing and Community Development (HCD)  
Emergency Housing and Assistance Program Capital Development  
(EHAPCD)**

**CONTRACTOR'S CERTIFICATION**

The undersigned further certifies that the Bidder who submitted the Bid to which this certification is attached, is appropriately licensed by, and in good standing with, the California Contractors' State License Board, and is not listed on the federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

**SIGNATURE OF:**

Bidder, if Bidder is an individual:

\_\_\_\_\_  
(Name of Bidder)

Partner, if Bidder is a partnership:

\_\_\_\_\_  
(Name of Partner)

Officer, if Bidder is a corporation

\_\_\_\_\_  
(Name of Officer)

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STATE OF CALIFORNIA           )  
                                                  )  
County of \_\_\_\_\_)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

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STATE OF CALIFORNIA           )  
                                                  )  
County of \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

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### WORK PLAN (Cost Breakdown)

Note: Add additional work items as needed.



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SAMPLE